

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

LORENZO THOMAS SIMS,

Plaintiff,

v.

Case No. 16CV1130 (JNE/SER)
ORDER

SHAWNDRA HOUDE, Dining Staff;
JOANNE CHRISTENSON, FSS; STEVEN
SAJDAK, Program Manager; KEVIN
MOSER, Assistant Director; EMILY
JOHNSON PIPER, Substitute
Commissioner of Human Services;
LUCINDA JESSON, Commissioner of
Human Services; STEVE SAYOVITZ,
Program Manager; TERRY KNIESEL,
Assistance Director; KEVIN MOSER,
Facility Director; et al.,

Defendants.

Plaintiff Lorenzo Thomas Sims brought this action alleging violations of his constitutional rights. Dkt. No. 1. He applied to proceed *in forma pauperis*. Dkt. No. 2. In reviewing Plaintiff's *in forma pauperis* application and the Complaint pursuant to 28 U.S.C. § 1915(e)(2)(B), the Honorable Steven E. Rau, United States Magistrate Judge, issued a Report and Recommendation on June 9, 2016, recommending dismissal of the action without prejudice and denial of the *in forma pauperis* application. Dkt. No. 4. Then, on June 22, 2016, Plaintiff filed a Notice of Voluntary Dismissal to dismiss the action without prejudice pursuant to Federal Rule of Civil Procedure 41(a). Dkt. No. 5.

A plaintiff “may dismiss an action without a court order by filing: [] a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment” Fed. R. Civ. P. 41(a)(1)(A). No defendant has served either an answer or a motion for summary

judgment in this action. Unless stated otherwise, a Rule 41(a)(1) dismissal is without prejudice. Fed. R. Civ. P. 41(a)(1)(B). It must be noted, however, that “if the plaintiff previously dismissed any federal- or state-court action based on or including the same claim, a notice of dismissal operates as an adjudication on the merits.” *Id.*

Based on the files, records, and proceedings herein, and for the reasons discussed above,
IT IS ORDERED THAT:

1. This Action is DISMISSED pursuant to Plaintiff Lorenzo Thomas Sims’ Notice of Voluntary Dismissal [Dkt. No. 5].
2. Plaintiff Lorenzo Thomas Sims’ Application to Proceed in District Court without Prepaying Fees or Costs [Dkt. No. 2] is DENIED AS MOOT.
3. The Court DECLINES TO ADOPT the June 9, 2016 Report and Recommendation [Dkt. No. 4] as MOOT.

Dated: June 23, 2016

s/ Joan N. Ericksen
JOAN N. ERICKSEN
United States District Judge